

Agenda Date: August 11, 2004

Item Number: **A2**

Docket: **UT-041316**

Company Name: Verizon Northwest Inc.

Staff: Dave Griffith, Senior Telecommunications Engineer

Recommendation:

Suspend Verizon Northwest, Inc.'s tariff filing to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching in Docket UT-041316 and consolidate the proposed changes into the arbitration proceeding in Docket UT-043013.

Background:

On July 22, 2004, Verizon Northwest Inc., ("Verizon") filed Advice No. 3124 in Docket UT-041316 to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching. In this filing, Verizon stated that beginning August 22, 2004, Verizon will no longer offer the following elements in its Unbundled Network Elements Tariff, WN U-21, except under an effective interconnection agreement:¹

*ISDN PRI Digital Trunk Side Port

ISDN PRI Digital Trunk Side Port Features

Common (Shared) Transport for use with ISDN PRI Digital Trunk Side Port

Unbundled Network Element Platform (UNE-P) combinations that include ISDN

PRI Digital Trunk Side Port

*DS1 Digital Trunk Side Port

DS1 Digital Trunk Side Port Features

Common (Shared) Transport for use with DS1 Digital Trunk Side Port

Unbundled Network Element Platform (UNE-P) combinations that include DS1

Digital Trunk Side Port

¹ Elements that are in service and not under in effective interconnection agreement "will be replaced with alternative arrangements."

* Elements currently in Verizon's Unbundled Network Elements Tariff, WN U-21.

Verizon's request is based on the Federal Communications Commission's ("FCC") Report and Order and Order on Remand and Further Notice of Proposed Rulemaking released on August 21, 2003, in CC Docket Nos. 01-338, 96-98, and 98-147 ("Triennial Review Order" or "TRO"). With the exception of the DS1 Digital Trunk Side Port and ISDN PRI Digital Trunk Side Port, the remaining elements are not currently listed in Verizon's Unbundled Network Elements Tariff, WN U-21.

Discussion:

In effect, Verizon proposes to withdraw Enterprise Switching elements from its UNE tariff. Most of the elements listed are not in existence in its UNE tariff. The Company has simply added new text stating that it will no longer process any new orders for the listed elements.

Verizon also sent a notice to the CLECs regarding this proposed change. In this notice, Verizon indicates that it is prepared to enter into alternate service arrangements with customers and states:

Verizon is prepared to work with your company to migrate its existing Enterprise UNE-P arrangements to suitable alternative services (such as resale or an alternative commercial arrangement) prior to August 22, 2004. Should your company fail to migrate its Enterprise UNE-P service arrangements to an alternative service on or before that date, Verizon will begin billing any Enterprise UNE-P arrangements that remain in place after August 22, 2004, at a rate equivalent to the Section 251(c)(4) resale rate for business service applicable in that jurisdiction in order to avoid service disruption.

Staff is concerned about the intent of this tariff change. Verizon is not clear in its notice about what constitutes an "effective agreement." The intent of the notice appears to be in conflict with the proceedings in Docket UT-043013. This docket was opened for the purpose of considering a petition for arbitration filed by Verizon to arbitrate an amendment to all interconnection agreements with Verizon in Washington State relating to the Triennial Review Order and *United States Telecom Ass'n v FCC*, 359 F.3d 554 (D.C. Circuit 2004) ("USTA II"). In Docket UT-043013, the administrative law judge has entered an order requiring Verizon to maintain the status quo under its

interconnection agreements pending the conclusion of the arbitration proceeding. At paragraph 55 of the Order No. 5 in UT-043013 the ALJ ordered Verizon as follows:

As required in Order No. 04, Verizon must continue to provide all of the products and services under existing interconnection agreements with CLECs, at the prices set forth in the agreements, until the Commission approves amendments to these agreements in this arbitration proceeding or the FCC otherwise resolves the legal uncertainties presented by the effect of the mandate in USTA II. Maintaining the status quo among parties to interconnection agreements will allow negotiation or arbitration of amendments to such agreements to proceed without the threat of sudden or unplanned discontinuation of services and products offered under the agreements.

The terms of providing enterprise switching and DS1 loops and the pricing of these services are at issue in the arbitration proceeding. Given the status quo order in Docket UT-043013, there might be a conflict between the order and Verizon's request to no longer offer unbundled network elements.

Conclusion:

Staff recommends that the Commission suspend Verizon Northwest, Inc.'s tariff filing to withdraw unbundled Enterprise Switching and unbundled Shared Transport for use with Enterprise Switching in Docket UT-041316 and consolidate this filing into the arbitration proceeding in Docket UT-043013.